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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,533

10/13/2005

James C. LeBlanc Sr

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06/26/2008

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EXAMINER

GOODEN JR, BARRY J

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

06/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/524,533	Applicant(s) LEBLANC SR ET AL.	
	Examiner BARRY J. GOODEN JR	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44-49 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15, 17-35, 37, 39-41 and 50-56 is/are rejected.
- 7) ☒ Claim(s) 10, 16, 36, 38, 42 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/14/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 33, 34, 39, and 46 are objected to because of the following informalities:

Claim 33, at line 2 of the claim, "guiding sand module" should be replaced with "guiding said module".

Claim 34, at line 2 of the claim, "module o" should be replaced with "module to".

Claim 39, at line 2 of the claim "set leg" should be replaced with "set of leg".

Claim 46, at line 2 of the claim "biasing sand rod member" should be replaced with "biasing a rod member".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7, 12, 13, 28, 33-35, 37, 39, and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergstrom et al., WO 01/23245.

In regards to claims 1-3, 7, 12, 13, 28, 33-35, 37, 39, and 52, Bergstrom et al. discloses all of the claimed elements including a module (20), a power plant (21), radiator (22), fan (not shown), support structure (23,24), wheel assemblies (42,43), body (11), access opening (12-15), steering system (Reference is made to Figure 3,

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element 51), means (12-15) supported on said body (Reference is made to Figures 1-3 and page 7 of the disclosure).

Examiner notes that although a fan is not shown it is considered inherent to the prior art.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4, 5, 8, 9, 11, 14, 15, 17-22, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergstrom et al. in view of Knapp et al., US Patent 4,796,721.

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7. In regards to claims 4, 5, 8, 9, 11, 14, 15, 17-22, and 29-31, Bergstrom et al. discloses all of the claimed elements including an engine (21), a radiator (22) supported on said support structure, a fan supported on said support structure and engine mounts (inherent) disposed on crosspiece members (23, 24). Bergstrom et al. does not disclose the transmission disposed below the engine. Knapp et al. teaches of a power plant including an engine (34) and a transmission (36), disposed beneath said engine drive transferring means, including a resilient mount (38), a closed power plant compartment having air intake and exhaust openings (reference is made to column 1 lines 56-61), monocoque construction (reference is made to figures 4 and 11), an access door (32) provided in a roof section of a body; the access door including a grill (inherent, reference is made to figures 4 and 11).

It would have been obvious for one of ordinary skill in the art at the time of invention to have modified Bergstrom et al. in view of the teachings of Knapp et al. to have included a transmission and closed power plant compartment so as to provide a unitary power pack enabling an operator to disconnect the power pack and effect servicing.

In regards to claims 6, 23-27, 32, 40, 41, and 50, 51, 53-56 Bergstrom et al. in view of Knapp et al. teaches all of the claimed elements excluding the type of engine and transmission as well as the wheel configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the engine and transmission of Bergstrom et al. in view

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Knapp et al. to include a gas, diesel, or hybrid engine, electric motor, an automatic or manual transmission, any number of wheel configurations, and universal joints since they are old and well known in the art and it would have been obvious to try since it is known that a diverse array of engines and motors, transmissions, and wheel configurations are desirable for different terrains and uses as a matter of design choice, additionally universal and constant velocity joints are old and well known in the art for coupling transmissions and drive trains.

Allowable Subject Matter

8. Claims 10, 16, 36, 38, 42, and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 44-49 are allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARRY J. GOODEN JR whose telephone number is (571)272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Barry J Gooden Jr.
Examiner
Art Unit 3616

BJG

/Lesley D. Morris/
Supervisory Patent Examiner, Art Unit 3611